FILED IN MY OFFICE Case 2:18-cv-00075-GJF-CG Document 1-1 Filed 01/24/18 Page 1 oPtSTRICT COURT CLERK 5/9/2017 3:13:48 PM

KATIE ESPINOZA Janet Bloomer

STATE OF NEW MEXICO COUNTY OF CHAVES FIFTH JUDICIAL DISTRICT

Joe Gutierrez ,

Plaintiff.

VS.

The Hartford Insurance,

and D-504-CV-2017-00421

Anita Canales Case assigned to Riggs, Kea W.

Defendants.

COMPLAINT FOR DAMAGES

COMES NOW Plaintiff, Joe Gutierrez, by and through his attorneys of record, Sanders, Bruin, Coll & Worley, P.A. (John Sullivan Hightower) and for his cause of action against the Defendant states as follows:

JURISDICTION AND VENUE

- 1. Plaintiff is a resident of City of Hondo, County of Lincoln, State of New Mexico.
- 2. Upon information and belief, Defendants are a resident or do business in the City of Pueblo, County of Pueblo, State of Colorado.
- 3. This Court has jurisdiction over the parties herein and the subject matter herein.
- 4. That venue is proper in this Court pursuant to NMSA 1978, §38-3-1(A).
- 5. Anita Canales changed the title in Roswell, New Mexico.

EXHIBIT A1

Facts

- 6. Joe Gutierrez allowed the vehicle with vin #2G1WF5ZK55932263 to be used by a friend named Anita Canales.
- 7. Anita Canales titled the vehicle in her name.
- 8. This was done with out Joe Gutierrez's knowledge.
- 9. Anita Canales added the vehicle to her personal insurance.
- 10. Anita Canales then reported the vehicle as stolen to her personal insurance.
- 11. Anita Canales then collected from the insurance company the value of the vehicle.
- 12. Hartford Insurance accepted the claim without questioning it.
- 13. The current title and past titles are listed as exhibit "A".
- 14. The Hartford Insurance Company paid the claim.
- 15. The Hartford Insurance company took steps to title the vehicle in their name.
- 16. These actions were taken without Mr. Gutierrez's consent.
- 17. Mr. Gutierrez has suffered a personal loss.

Unjust Enrichment (The Hartford Insurance)

- 18. Plaintiff adopts and realleges Paragraphs 1 through 17 of this Complaint as if outlined in full.
- 19. Defendant has knowingly benefited from Plaintiff at Plaintiff's expense.
- 20. It would be unjust to allow Defendant to continue to benefit from the Plaintiff.
- 21. Plaintiff has been damaged by the Defendant in an amount, which will be shown at trial of this matter.

Fraud (The Hartford Insurance)

22. Plaintiffs adopt and realleges Paragraphs 1 through 21 of this Complaint as if outlined in

full.

- 23. Defendant misrepresented facts to the Plaintiff.
- 24. Defendant had knowledge its representations to the Plaintiff were false.
- 25. Defendant has recklessly misrepresented the facts to the Plaintiff.
- 26. Plaintiff detrimentally relied on the Defendant's misrepresentations.
- 27. Plaintiff has been damaged by the Defendant's misrepresentations.

Unjust Enrichment (Anita Canales)

- 28 . Plaintiffs adopts and realleges Paragraphs 1 through 27 of this Complaint as if outlined in full.
- 29. Defendant knowingly benefited from Plaintiff at Plaintiff's expense.
- 30. It would be unjust to allow the Defendant to continue to benefit from the Plaintiff.
- 31. Plaintiff has been damaged by the Defendant in an amount, which will be shown at trial of this matter.

Fraud (Anita Canales)

- 32. Plaintiff adopts and realleges Paragraphs 1 through 21 of this Complaint as if outlined in full.
- 33. Defendant misrepresented facts to Plaintiff.
- 34. Defendant had knowledge that her representations to Plaintiff were false.
- 35. Defendant recklessly misrepresented the facts to the Plaintiff.
- 36 Plaintiff detrimentally relied on Defendant's misrepresentations.
- 37. Plaintiff has been damaged by Defendant's misrepresentations.

PRAYER:

WHEREFORE, Plaintiffs, requests that this Court award to Plaintiff and against Defendant compensatory damages in an amount to be determined at trial, punitive damages, costs and attorneys fees, together with pre-judgment and post-judgment interest at the legal rate with such other and further relief as the Court deems just and proper.

Respectfully submitted,

SANDERS, BRUIN, COLL & WORLEY, P.A.

John Sullivan Hightower

Post Office Box 550

Roswell, NM 88202-0550

(575) 622-5440

(575) 622-5853 (Fax)

Attorneys for Plaintiff

PLAINTIFF'S Case 2:18-cv-00075-GJF-CG Document 1-1 Filed 01/24/18 Page 5 of 92 EXHIBIT

STATE OF NOR MENODO

ATION IS PEVENUE DEPORTUENT
MOSTOR VEHICLE DAVISOR

APPLICATION FOR VEHICLE TITLE AND REGISTRATION

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Motor Vehicle Department

Susana Martinez Governor Demesia Padilla, CPA Cabinet Secretary

Roswell Office - 04A

Interaction #: R1215558656

200 East Wilshire Blvd

Clerk Initials: AV

Roswell, NSI 88201

(575) 624-6063

Letter ID: L1423580672

License/Vehicle Number	Description	Amount
2G1WF52K559322630	MVD2.0 : 20160526-04A-ABV-14184300	\$16,50
	Sub Total	\$16,50
	Total	\$16.50
	Cash Tendered:	\$20,50
	Change Cash:	\$4.00

Ref: pL011

Thank you for visiting your local MVD office! *Credit Card Fee is not retained by the Motor Vehicle Division

Save time by visiting our website at www.mvd.acumexics.gov Click Online Services to access!

For additional help or inquiries, please call: (888)883-4636



Joe Gutierrez
Joe Gutierrez
Joe Gutierrez

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NEW MEXICO MOTOR VEHICLE DIVISION

INSURANCE IDENTIFICATION CARD FACSIMILE

NEW MEXICO'S PROOF OF FINANCIAL RESPONSIBILITY

COMPANY

Property & Casualty Insurance Company of Hartford

POLICY NUMBER

EFFECTIVE DATE

EXPIRATION DATE

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VEHICLE IDENTIFICATION NUMBER

2G1WS52K559322630

INSURED

CANALES, ANITA 113 DON JOSE PL HONDO, NM. 81004

THIS FORM MUST BE KEPT IN THE MOTOR VEHICLE WITH THE **CERTIFICATE OF REGISTRATION**

IN CASE OF ACCIDENT: Report all accidents to your Hartford Insurance Representative as soon as possible. Obtain the following information:

Name and address of each driver, passenger and witness;

Name of Insurance Company and policy number for each vehicle involved.

For: Claim Service, Call Toll Free 1-877-805-9918. Customer Service, Call Toll Free 1-800-423-6789.

Form DRA-793-3(ED. 12/01) Printed in U.S.A.

CLAIM# PA 0016836 157 CLAIM AGISTOR MEGAN WILSON 1800-736-0398 EXT 2307300

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INSURANCE IDENTIFICATION CARD FACSIMILE

NEW MEXICO'S PROOF OF FINANCIAL RESPONSIBILITY

COMPANY

Property & Casualty Insurance Company of Hartford

POLICY NUMBER

EFFECTIVE DATE

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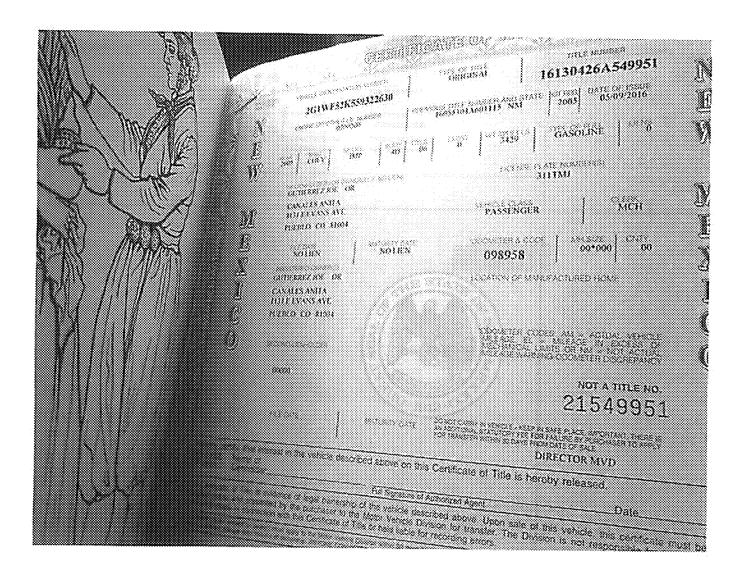
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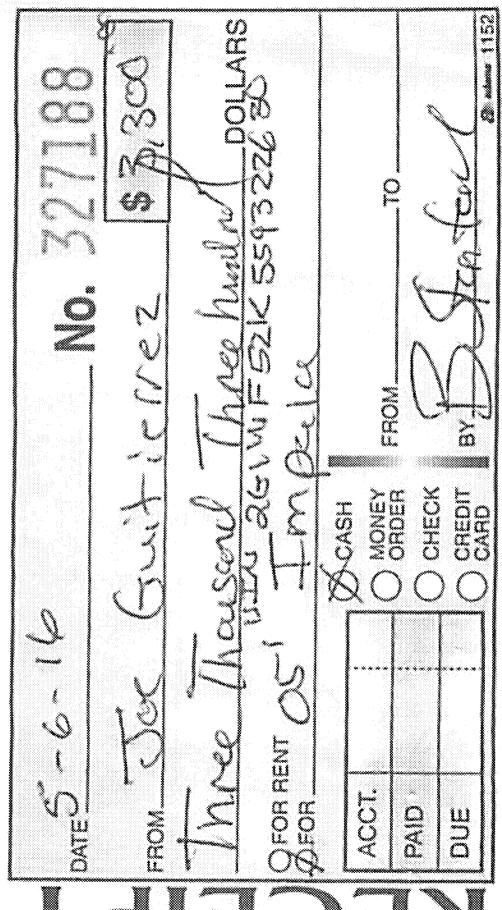
NEW MEXICO MOTOR WEHICLE DIVISION

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New Mexico Insurance Identification Card 1-800-841-3000

GOVERNMENT EMPLOYEES INSURANCE COMPANY P.O. Box 509090 • San Diego, CA 92150-9090

Policy Number 4144-03-88-92

Effective Date 04-15-16

Expiration Date 10-15-16

Year 2005

Make CHEV Model IMPALA Vehicle ID No. 2G1WF52K559322630

insured:

Joe S Gutierrez PO Box 162 Hondo NM 88336-0162 MAND TO DESTRUCTIONS

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SIGNATURE - OWNER MUST SIGN

OWNER AFFIRMS FINANCIAL RESPONSIBILITY AS DEFINED

A () (1885 - 18 THE MANDANDRY FINANCIAL RESIONS BIBLITY ACT

REGISTERED DASHER NAME AND ADDRESS

1131 E EVANS AVE PUEBLO CO 81004

CAMALES ANITA

or O

GUTTERREZ JOE

THES THERE THE AND FIRST TO FINE PLANT OF RESPONSIBILITIES HE STAINSH THE THE WAR TO SHE THE SERVICES.

(1) MAKE SURE THE LICENSE PLATE NUMBER PRINTED ON THE STICKER MATCHES THE LICENSE PLATE YOU ARE APPLYING STICKER TO.

DE SURE THAT PLATE IS CLEAN, DRY, AND WARM, DO NOT MOISTEN UTHER THE PLATE OR THE STICKER,

(2) REMOVE STICKER FROM PAPER BY LIFTING A CORNER AND PETLING THE STICKER AWAY FROM THE BACKING.

(3) APPLY TO LOWER RIGHT DEPRESSION ON REAR LICENSE PLATE.

(TOP CENTER DEPRESSION FOR MOTORCYCLE PLATES)
(4) RUB OR PRESS DOWN FIRMLY AROUND ALL EDGES.

e 2 18:00 0 0075 GJF-CG Document 1-1 Filed 01/24/18 Page 18 of 92

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INCIDENT/INVESTIGATION REPORT

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Suspect Hate / Bias Mativated:

NARRATIVE

As of this initial report, there is NO photo, video, BWC of audio evidence submitted by this Technician. See attachments for related documents.

On May 31, 2016 at approximately 12:32, 1 (Crystal Reffah) took an Aggravated Motor Vehicle Theft 2nd Degree in the Lobby at the Front Desk of the Pueblo Police Department. ANITA C. CANALES reported that her vehicle was stolen from the street in front of her residence.

Nothing further at this time.

	REPORTING OFFICER NARRATIVE	000
Pueblo Police Department		OCA 16-010901
Victim CANALES, ANITA C	AGG MOTOR VEHICLE THEFT 2ND DEG	Date / Time Reported Tue 05/31/2016 12:32
THE INFORMATION	N BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ON	1 V

As of this initial report, there is NO photo, video, BWC of audio evidence submitted by this Technician. See attachments for related documents.

On May 31, 2016 at approximately 12:32, 1 (Crystal Reffalt) took an Aggravated Motor Vehicle Theft-2nd Degree report in the Lobby at the Front Desk of the Pueblo Police Department. ANITA C. CANALES (09/15/1953) reported that her 2005 Chevrolet Impala was stolen from the street in front of her residence (1131 E. Evans Ave).

ANITA stated that she parked her vehicle (New Mexico Registration-attached) at her residence on 05/28/2016 at 18:30. She noted that she locked her vehicle and had possession of her keys at the time. When ANITA attempted to return to her vehicle on 05/29/2016 at 07:45, the vehicle was gone. ANITA is unsure how the vehicle was entered or who took the vehicle. She said that there was about 98,000-99,000 miles on the vehicle and about a 1/4 tank of gas at the time the vehicle was taken. She was unsure if the vehicle had a security system. ANITA did not see anything left behind at the scene including glass. She did not believe that there were an items in the vehicle when it was stolen and had NO suspect information.

Dispatch confirmed the vehicle had not been towed or impounded and a BOLO was sent.

Nothing further at this time.

Reporting Officer: REFFALT, CRYSTAL R CSJNC

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Incident Report Related Vehicle List

Pueblo Police Department

OCA: 16-010901

1	VehYr/Make/Mo		_	Styte		G	olor	l.ie/l.is	VIN				
١.	2005 CH	E, Impa	la_		<i>\$D</i>		SII.	311TMJ NA	12016	2G1WF52K559322630			
	MR Status <i>Reco</i>	vered		Date	09/09/2		RUYDOS	O NM					
	Condition		Vah	nc .	\$3, 300	1	Steme Code 240	Jurisdiction Locally	State 0	NIC #			
İ	Name (Lost, First,	Middle)					Also Known	As	Home Address				
Į		Cana	les, An	ita C			Í	1131 E EVANS AVE					
ľ	Rusiness Address						-			PUEBLO, CO 81004 719-281-6016			
	DOB 09/15/1953	Age 62	Race IV	Sex F	11gs 507	Wgt 162		s, Tattoos, or other distings	rishing features				

Notes

CASE SUPPLEMENTAL REPORT

Printed: 11/23/2016 14:12

Pueblo Police Department

OCA: 16010901

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Case Status: UNFOUNDED

Case Mag Status: UNFOUNDED

Occurred: 05/28/2016

Offense: AGG MOTOR VEHICLE THEFT 2ND DEG VALUE \$1,000 TO \$20,000

lavestigator: LAUT, BRIAN EDWARD (1458)

Date / Time: 09/10/2016 00:14:57, Saturday

Supervisor: BALLAS, ZACHARY J (12959)

Supervisor Review Date / Time: 09/10/2016 04:51:55, Saturday

Contact:

Reference: Supplement

There is no photo, video, audio, or BWC evidence added to this call by this Officer.

On 09/10/16, at approximately 0005 hours, I Officer Brian Laut was dispatched to 200 S. Main Street, in the City and County of Pueblo, Colorado, in reference to a recovered stolen vehicle (PPD CR#: 16010901).

I observed the call notes to state this vehicle was located in Ruydoso, New Mexico, on 09/09/16, at approximately 2009 hours. I observed the call notes to state the vehicle was located by Officer Daley and only the rear license plate is on the vehicle. The call notes had no further information.

I have completed an XBOLO.

Nothing further.

Investigator Signature

Supervisor Signature

COMMUNICATIONS

Event Report

Event ID: 2013-040271 Call Ref #: 717 Date/Time Received: 05/26/13 06:20:28 Rot#: 2013-006048 Prime Z3 Services Involved Unit: STANTON, MIKE Call Source: E911 LAW **EMS** Location: 804-B S KENTUCKY AVE X-ST: W DEMING ST Jur: PVRC Service: LAW Agency: RPD W MATHEWS ST St/Beat: BKER District: RA: 209 **Business:** Phone: **GP: GPB** Nature: BATTERY Alarm Lvl: 1 Priority: P Medical Priority: 0 Reclassified Nature: Caller: Alarm: Addr: Phone: Alarm Type: Vehicle #: St: Report Only: No Race: Sex Age: Cali Taker: JMARQUEZ Console: COMM4 Geo-Verified Addr.: Yes Nature Summary Code: BATT **Disposition: RPT Close Comments:** Notes: See Event Notes Addendum at end of this report **Times** Time From Call Received Call Received: 05/26/13 06:20:28 Call Routed: 05/26/13 06:23:08 Unit Reaction: 000:05:43 (1st Dispatch to 1st Arrive) 000:02:38 Call Take Finished: 05/26/13 06:25:08 000:04:40 En-Route: 000:00:46 (1st Dispatch to 1st En-Route) 1st Dispatch: 05/26/13 06:23:06 000:02:38 (Time Held) On-Scene: 004:10:22 (1st Arrive to Last Clear) 1st En-Route: 05/26/13 06:23:52 000:03:24 1st Arrive: 05/26/13 06:28:49 000:08:21 (Reaction Time) Last Clear: 05/26/13 10:39:11 004:18:43

Radio Log

Unit	Empl ID	Туре	Description	Time Stamp	Comments	Close Code	
374	RPD374	D	Dispatched	05/26/13 06:23:06	Stat/Beat: ADAM		KMCKENNA
352	RPD352	D	Dispatched	05/26/13 06:23:06	Stat/Beat: DELT		KMCKENNA
352	RPD352	E	En-Roule	05/26/13 06:23:52			Unlt:352
374	RPD374	X	Canceled	05/26/13 06:24:35	Cancelled by Exchange Command		KMCKENNA
373	RPD373	D	Dispatched	05/26/13 06:24:35	Stat/Beat: NRNG		KMCKENNA
373	RPD373	E	En-Route	05/26/13 06:24:35	Stat/Beat: NRNG		KMCKENNA
352	RPD352	A	Arrived	05/26/13 06:28:49			KMCKENNA
373	RPD373	Α	Arrived	05/26/13 06:28:50			KMCKENNA
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INCIDENT/INVESTIGATION REPORT

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Suspect Hate / Bias Motivated:

NARRATIVE

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Nothing further at this time.

	OCA		
Pueblo Police Department		16-010901 Date / Time Reported Tue 05/31/2016 12:32	
Victim CANALES, ANITA C	Official AGG MOTOR VEHICLE THEFT 2ND DEG		
THE INFORMATION B	ELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ON	LY	

As of this initial report, there is NO photo, video, BWC of audio evidence submitted by this Technician. See attachments for related documents.

On May 31, 2016 at approximately 12:32, I (Crystal Reffalt) took an Aggravated Motor Vehicle Theft-2nd Degree report in the Lobby at the Front Desk of the Pueblo Police Department. ANITA C. CANALES (09/15/1953) reported that her 2005 Chevrolet Impala was stolen from the street in front of her residence (1131 E. Evans Ave).

ANITA stated that she parked her vehicle (New Mexico Registration-attached) at her residence on 05/28/2016 at 18:30. She noted that she locked her vehicle and had possession of her keys at the time. When ANITA attempted to return to her vehicle on 05/29/2016 at 07:45, the vehicle was gone. ANITA is unsure how the vehicle was entered or who took the vehicle. She said that there was about 98,000-99,000 miles on the vehicle and about a 1/4 tank of gas at the time the vehicle was taken. She was unsure if the vehicle had a security system. ANITA did not see anything left behind at the scene including glass. She did not believe that there were an items in the vehicle when it was stolen and had NO suspect information.

Dispatch confirmed the vehicle had not been towed or impounded and a BOLO was sent.

Nothing further at this time.

Reporting Officer: REFFALT, CRYSTAL R CSJNC

Incident Report Related Vehicle List

Pueblo Police Department

OCA: 16-010901

VehYr/Make/Model 2005 CHE, Impala				SD	C	Celor SIL	Lichis 311TMJ NM	2016	VIN 2G1WF52K559322630		
IBR Status Recovered			Date	09/09/2		Location				20777 323333322030	
Condition		Val	uc	\$ 3, 300		Sense Code 240	Jurisdiction Locally	State #		NIC #	
Name (Last, First, Middle) Canales, Anita C						Also Known	Home Add	Home Address 1131 E EVANS AVE			
Business Address]		BLO, CO 81004 9-281-6016	
DOB 09/15/1953 	Лет 62	Recc W	Sex F	11gs 507	Wgt 162		s, Tattoos, or other distingu	ishing features			

Notes

CASE SUPPLEMENTAL REPORT

Printed: 11/23/2016 14:12

Pueblo Police Department

OCA: 16010901

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Case Status: UNFOUNDED

Case Ming Status: UNFOUNDED

Occurred: 05/28/2016

Offense: AGG MOTOR VEHICLE THEFT 2ND DEG VALUE \$1,000 TO \$20,000

Investigator: LAUT, BRIAN EDWARD (1458)

Date / Time: 09/10/2016 00:14:57, Saturday

Supervisor: BALLAS, ZACHARY J (12959)

Supervisor Review Date / Time: 09/10/2016 04:51:55, Saturday

Contact: Reference: Supplement

There is no photo, video, audio, or BWC evidence added to this call by this Officer.

On 09/10/16, at approximately 0005 hours, I Officer Brian Laut was dispatched to 200 S. Main Street, in the City and County of Pueblo, Colorado, in reference to a recovered stolen vehicle (PPD CR#: 16010901).

I observed the call notes to state this vehicle was located in Ruydoso, New Mexico, on 69/09/16, at approximately 2009 hours. I observed the call notes to state the vehicle was located by Officer Daley and only the rear license plate is on the vehicle. The call notes had no further information.

I have completed an XBOLO.

Nothing further.

Investigator Signature

Supervisor Signature

asc 2.10-00-0	CPD							
, and a second	Officer Boiley PLANTIFFS							
	Aust 844							
	to DAL							
	675) 973-3838							
	Icen Duke							
	Arrow Towing							
	VIN # AG1WF52K5S93ZZ63							
supplying a new conservation of the description	Nm & Cicense 311-TMJ							
Service Servic								
	got general Anita Canales							
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***************************************	Car already taken out of her							
	name.							
	she reported it to her insurance							
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	put in their name							
	Hartford Insurance							
	Geico inscrect W. Sharia							
	2005 Mour Impola							

SUMMONS						
Fifth Judicial District Court:	Case Number: D-504-CV-2017-00421					
Chaves County						
New Mexico						
Court Address: P.O. Box 1776						
Roswell, NM 88202-1776	Judge: Kea W. Riggs					
Court Telephone No.: 575-622-2212						
Plaintiff	Defendant					
Joe Gutierrez						
	Name: The Hartford Insurance					
V.	Company					
The Hartford Insurance Company	690 Asylum Ave.					
and Anita Canales,	Hartford, CT 06155					
Defendants						

ORIGINAL: To Be Returned to Clerk of District Court for Filing.

TO THE ABOVE-NAMED RESPONDENT (S)/PETITIONER: Take notice

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Dated at Roswell, New Mexico, this 26th day of May 2017, 2016.

By: Janet Bloomer Deputy



John S. Hightower P.O. Box 550

Roswell, NM 88202-0550 Telephone No.: (575) 622-5440

Fax No.: (575) 622-5853

Email Address: jsh@sbcw.com

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

RETURN

STATE	OF NEW MEXICO)						
CO.11317)ss.						
COUNT	TY OF Chaves)						
this laws	eing duly sworn, on oath, state that I am over the suit, and that I served this summons in <u>Chaves</u> co	ounty on the day of					
	, 2016 by delivering a copy of this summons', w						
	g manner: (check on box and fill in appropriat	te blanks)					
0	To Defendant summons and complaint or refuses to accept th	(used when Defendant accepts a copy of					
0	To Defendant by [mail] [courier service] as pro is by mail or commercial courier service	ovided by Rule 1004 NM RA (used when service					
0		on over fifteen (15) years of age and residing at					
	To a personal a personal and a personal abode of Defendant, (used with abode) a copy of the summons and complaint						
0	To, the per	rson apparently in charge at the actual place of by mailed by first <i>class mail</i> to the Defendant <i>at</i>					
	business or employment of the Defendant and by (insert Defendant's business address) and by mail to the Defendant at (insert Defendant's last	ailing the summons and complaint by first class					
0	To an ager	nt authorized to receive service of process for					
	Defendant						
		f Defendant (used when Defendant is a minor or					
	an incompetent person).						
0	To (name	of person),, (title s alternative when the Defendant is a					
	corporation or an association subject to a suit a						
Fees:	trustee, the State of New Mexico or any political	u suoaivision).					
rees							
		Signature of person making service					
		Title (if any)					
Subscrib	bed and sworn to before me this day	of , 2016.					
	 ,	 -					
		Judge, notary or other officer authorized To administer oaths					
		Oct. 1 cd					
M	· · · D	Official title					
My Con	nmission By:						

SUMMONS						
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Court Address: P.O. Box 1776						
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Joe Gutierrez						
	Name: Anita Canales					
V.	1131 E. Evans Ave.					
The Hartford Insurance Company	Pueblo, CO 81004					
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Dated at Roswell	, New Mexico, this _	26th	day of <u>May</u>
2017 . 2016 .			•

By: Janet Bloomer Deputy



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0	To, the per	rson apparently in charge at the actual place of					
	To, the person apparently in charge at the actual place of business or employment of the Defendant and by mailed by first <i>class mail</i> to the Defendant <i>at (insert Defendant's business address)</i> and by mailing the summons and complaint by first class mail to the Defendant <i>at (insert Defendant's last known mailing address)</i> .						
0	To an ager	nt authorized to receive service of process for					
	Defendant						
		f Defendant (used when Defendant is a minor or					
	an incompetent person).						
0	To (name of person authorized to receive service. Use this	of person),, (title					
	corporation or an association subject to a suit to						
Fees:	trustee, the State of New Mexico or any political	u suodivision).					
rees							
		Signature of person making service					
		Title (if any)					
Subscri	bed and sworn to before me this day	7 of 2016					
Subsciii	day						
		Judge, notary or other officer authorized To administer oaths					
		Official title					
My Con	nmission By:						

FILED IN MY OFFICE
Case 2:18-cv-00075-GJF-CG Document 1-1 Filed 01/24/18 Page 37 opto TRICT COURT CLERK
8/7/2017 1:08:21 PM
KATIE ESPINOZA

STATE OF NEW MEXICO COUNTY OF CHAVES FIFTH JUDICIAL DISTRICT

JOE GUTIERREZ, Petitioner,

VS.

Case No. D-504-CV-2017-00421

Janet Bloomer

THE HARTFORD INSURANCE, ANITA CANALES, and GEICO INSURANCE COMPANY Defendants.

AMENDED COMPLAINT TO RECOVER DAMAGES

COMES NOW, Plaintiff, Joe Gutierrez, by and through his attorneys of record, Sanders, Bruin, Coll & Worley, P.A. (John S. Hightower) and for his Cause of Action against the Defendants states as follows:

- 1. Plaintiff is a resident of the County of Lincoln, State of New Mexico.
- Upon information and belief, Defendant Anita Canales is a resident of the City of Roswell, County of Chaves, State of New Mexico.
- 3. Upon information and belief, Defendant, The Hartford Insurance Company is a domestic insurer, licensed to conduct business within the State of New Mexico.
- 4. Upon Information and belief, Defendant GEICO Insurance Company is a domestic insurer, licensed to conduct business within the State of New Mexico.
- 5. Defendant Anita Canales committed the acts that gave rise to this suit in the county of Chaves.
- 6. This Court has jurisdiction over the parties herein and the subject matter herein.
- 7. That venue is proper in this Court pursuant to NMSA 1978, §38-3-l(A).

FACTS

- 8. Joe Gutierrez allowed the vehicle with vin #2G1WF5ZK55932263 to be used by a friend named Anita Canales.
- 9. Anita Canales transferred title of the vehicle into her name.
- 10. This was done without Joe Gutierrez's knowledge.
- 11. Anita Canales added the vehicle to her personal insurance.
- 12. Anita Canales then reported the vehicle as stolen to her personal insurance.
- 13. Anita Canales then collected from the insurance company the value of the vehicle.
- 14. The Hartford Insurance accepted the claim without questioning it.
- 15. The current title and past titles are listed as exhibit "A".
- 16. The Hartford Insurance company paid the claim.
- 17. The Hartford Insurance company took steps to title the vehicle in their name.
- 18. These actions were taken without Mr. Gutierrez's consent.
- 19. Mr. Gutierrez has suffered a personal loss. Mr. Gutierrez notified his insurance company, GEICO and GEICO refused to pay on the claim.

Unjust Enrichment (The Hartford Insurance)

- 20. Plaintiff adopts and re-alleges Paragraphs 1 through 19 of this Complaint as if outlined in full.
- 21. Defendant, The Hartford Insurance has knowingly benefited from Plaintiff at Plaintiffs e x p e n s e.
- 22. It would be unjust to allow Defendant the Hartford Insurance to continue to benefit from the Plaintiff.

23. Plaintiff has been damaged by the Defendant the Hartford Insurance in an amount, which will be shown at trial of this matter.

Fraud (The Hartford Insurance)

- 24. Plaintiffs adopts and re-alleges Paragraphs 1 through 23 of this Complaint as if outlined in full.
- 25. Defendant the Hartford Insurance misrepresented facts to the Plaintiff.
- 26. Defendant the Hartford Insurance had knowledge its representations to the Plaintiff were false.
- 27. Defendant the Hartford Insurance has recklessly misrepresented the facts to the Plaintiff.
- 28. Plaintiff detrimentally relied on the Defendant the Hartford Insurance's misrepresentations.
- 29. Plaintiff has been damaged by the Defendant the Hartford Insurance's misrepresentations.

Unjust Enrichment (Anita Canales)

- 30. Plaintiffs adopts and re-alleges Paragraphs 1 through 29 of this Complaint as if outlined in full.
- 31. Defendant Canales knowingly benefited from Plaintiff at Plaintiffs expense.
- 32. It would be unjust to allow Defendant Canales to continue to benefit from the Plaintiff. Plaintiff has been damaged by Defendant Canales in an amount, which will be shown at trial of this matter.

FRAUD (Anita Canales)

- 33. Plaintiff adopts and re-alleges Paragraphs I through 34 of this Complaint as if outlined in full.
- 34. Defendant Canales misrepresented facts to Plaintiff.
- 35. Defendant Canales had knowledge that her representations to Plaintiff were false.
- 36. Defendant Canales recklessly misrepresented the facts to the Plaintiff.
- 37. Plaintiff detrimentally relied on Defendant Canales' misrepresentations.
- 38. Plaintiff has been damaged by Defendant Canales' misrepresentations.

Breach of Contract (GEICO)

- 39. Plaintiff adopts and realleges Paragraphs 1 through 21 of this Complaint as if outlined in full.
- 40. Plaintiff and Defendant GEICO Insurance entered into a contract;
- 41. Plaintiff did all, or substantially all, of the significant things that the contract required him to do;
- 42. That all conditions required by the contract for Defendant GEICO's performance had occurred;
- 43. Defendant GEICO failed to do something that the contract required them to do,

 Defendant GEICO failed to pay the claim for the vehicle.
- 44. Plaintiff was harmed by that failure.

PRAYER

WHEREFORE, Plaintiff, requests that this Court award to Plaintiff and against all Defendant compensatory damages in an amount to be determined at trial, punitive damages, costs and attorney's fees, together with pre-judgment and post-judgment interest at the legal rate with such other and further relief as the Court deems just and proper.

Respectfully submitted,

SANDERS, BRUIN, COLT & WORLEY, P.A.

John Kullivan Hightower Post Office Box 550

Roswell, NM 88202-0550

(575) 622-5440

(575) 622-5853 (Fax)

Attorneys for Plaintiff

SUMMONS for AMENDED COMP	SUMMONS for AMENDED COMPLAINT TO RECOVER DAMAGES				
Fifth Judicial District Court:	Case Number: D-504-CV-2017-00421				
Chaves County					
New Mexico					
Court Address: P.O. Box 1776					
Roswell, NM 88202-1776	Judge: Kea W. Riggs				
Court Telephone No.: 575-622-2212					
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V.	1131 E. Evans Ave.				
The Hartford Insurance Company,	Pueblo, CO 81004				
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Dated at Roswell	, New Mexico, this	23rd	day of August
, 2017.			

By: Janet Bloomer Deputy





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Telephone No.: (575) 622-5440

Fax No.: (575) 622-5853

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0	To an ager Defendant to [custodian] [conservator] [guardian ad litem] of	nt authorized to receive service of process for
0	an incompetent person).	of nonson) (title
O	To	under a common name, a land grant board of
Fees: _	——————————————————————————————————————	a suo un ristoriy.
		Signature of person making service
		Title (if any)
Subscri	ibed and sworn to before me this day	of, 2017.
		Judge, notary or other officer authorized To administer oaths
My Cor	mmission By:	Official title

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Court Address: P.O. Box 1776						
Roswell, NM 88202-1776	Judge: Kea W. Riggs					
Court Telephone No.: 575-622-2212						
Plaintiff	Defendant					
Joe Gutierrez						
	Name: Geico Insurance Company					
v.	CT Corporation System					
The Hartford Insurance Company	206 S. Coronado Ave.					
Anita Canales and Geico Insurance	Espanola, NM 87532					
Company						
Defendants						

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Dated at _	Roswell	, New Mexico, this	23rd	day of August
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Court Telephone No.: 575-622-2212	
Plaintiff	Defendant
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	Name: The Hartford Insurance
V.	Company
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Anita Canales and Geico Insurance	1012 Marquez Pl. Ste. 106B
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By: Genet Bloomer Deputy



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0	To Defendant	(used when Defendant accepts a copy of
	To Defendantsummons and complaint or refuses to accept the	te summons and complaint)
0	To Defendant by [mail] [courier service] as proise by mail or commercial courier service	ovided by Rule 1004 NM RA (used when service
0	To a pers	on over fifteen (15) years of age and residing at hen the Defendant is not presently at place of
	abode) a copy of the summons and complaint	
0	To, the pe	rson apparently in charge at the actual place of by mailed by first <i>class mail</i> to the Defendant <i>at</i>
	business or employment of the Defendant and la (insert Defendant's business address) and by mail to the Defendant at (insert Defendant's la.	nailing the summons and complaint by first class
0	To an age	
O	Defendant to	[parent] [guardian]
	[custodian] [conservator] [guardian ad litem] o	f Defendant (used when Defendant is a minor or
	an incompetent person).	
0	To(name	of person),, (title is alternative when the Defendant is a
	corporation or an association subject to a suit trustee, the State of New Mexico or any political	
Fees:	trustee, the State of New Mexico or any politice	u suvaivision).
		<u> </u>
		Signature of person making service
		Title (if any)
Subscril	bed and sworn to before me this day	v of . 2017.
	 _	
		Judge, notary or other officer authorized
		To administer oaths
		Official title
My Com	nmission By:	Official title
, CON		

FILED IN MY OFFICE

SUMMONS for AMENDED COM	IPLAINT TO RECOVER DAMAGES
Fifth Judicial District Court:	Case Number: D-504-CV-2017-00421
Chaves County	
New Mexico	
Court Address: P.O. Box 1776	1 3 5
Roswell, NM 88202-1776	Judge: Kea W. Riggs
Court Telephone No.: 575-622-2212	
Plaintiff	Defendant
Joe Gutierrez	
	Name: Geico Insurance Company
v.	CT Corporation System
The Hartford Insurance Company	206 S. Coronado Ave.
Anita Canales and Geico Insurance	Espanola, NM 87532
Company	
Defendants	

ORIGINAL: To Be Returned to Clerk of District Court for Filing.
TO THE ABOVE-NAMED RESPONDENT (S)/PETITIONER: Take notice

that

- 1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
- 2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA.) The Court's address is listed above.
- 3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person(s) who signed the lawsuit.

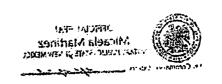
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.

- 5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
- 6. If you need an interpreter, you must ask for one in writing.
- 7. You may wish to consult a lawyer. You must contact the State Bar of New Mexico for help finding a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.

Subscribed and sworn to before me this 1st day of 12017.

OFFICIAL SEAL Judge, notative of other officer authorized To administer oaths

My Commission By:



SUMMONS for AMENDED COMPLAINT TO RECOVER DAMAGES					
Fifth Judicial District Court:	Case Number: D-504-CV-2017-00421				
Chaves County					
New Mexico					
Court Address: P.O. Box 1776					
Roswell, NM 88202-1776	Judge: Kea W. Riggs				
Court Telephone No.: 575-622-2212					
Plaintiff	Defendant				
Joe Gutierrez					
	Name: Geico Insurance Company				
V.	CT Corporation System				
The Hartford Insurance Company	206 S. Coronado Ave.				
Anita Canales and Geico Insurance	Espanola, NM 87532				
Company					
Defendants					

ORIGINAL: To Be Returned to Clerk of District Court for Filing.
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- 1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
- 2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA.) The Court's address is listed above.
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- 4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
- 5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
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- 7. You may wish to consult a lawyer. You must contact the State Bar of New Mexico for help finding a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nembar.org; 1-800-876-6657; or 1-505-797-6066.

Dated at	Roswell	New	Mexico,	this	23rd	dav	οf	August
. 201	7					J	01	Vana

By: Janet Bloomer Deputy



John S. Hightower P.O. Box 550

Roswell, NM 88202-0550

Telephone No.: (575) 622-5440

Fax No.: (575) 622-5853

Email Address: jsh@sbcw.com

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

RETURN

33.24.1.10	or New Mexico
Age of the A)ss.
COUN	TV OF Chaves
I, I	being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to
this law	suit, and that I served this summons in Chaves county on the day of
	, 2017 by delivering a copy of this summons', with a copy of the complaint attached in the
followin	ng manner: (check on box and fill in appropriate blanks)
Ö	To Defendant (used when Defendant accepts a copy of
	summons and complaint or refuses to accept the summons and complaint)
O.	To Defendant by [mail] [courier service] as provided by Rule 1004 NM RA (used when service
	is by mail or commercial courier service
Ö	To a person over fifteen (15) years of age and residing at
	the usual place of abode of Defendant, (used when the Defendant is not presently at place of
	abode) a copy of the summons and complaint
Ö	To, the person apparently in charge at the actual place of
	business or employment of the Defendant and by mailed by first class mail to the Defendant at
	(insert Defendant's business address) and by mailing the summons and complaint by first class
	mail to the Defendant at (insert Defendant's last known mailing address).
်ဂ	To an agent authorized to receive service of process for
	Defendant to the service of process for
	Defendant to , [parent] [guardian] [custodian] [conservator] [guardian ad litem] of Defendant (used when Defendant is a minor or
	the state of the s
Sign	To CT LORPOLATION (name of person), Laize Tis wrong, (title
O	of remon suffering the single of the state o
	of person authorized to receive service. Use this alternative when the Defendant is a
	corporation or an association subject to a suit under a common name, a land grant board of
V ann	trustee, the State of New Mexico or any political subdivision),
Fees:	
	Signature of person making service
	111035 2100
	Title (if any)
Subscril	ped and sworn to before me this 1st day of September 2017.
	Judge, notary of other officer authorized
į	Micaela Martinez To administer oaths
	NOTARY PURE C. STATE OF NEW MEDICO
1	my Commission Express 2/13/12/1
	Official title
My Com	mission By:
र १	**************************************
	5/13/21
	



KATIE ESPINOZA Janet Bloomer

FILED IN MY OFFICE

Fifth Judicial District Court: Chaves County	PLAINT TO RECOVER DAMAGES Case Number: D-504-CV-2017-00421					
New Mexico						
Court Address: P.O. Box 1776						
Roswell, NM 88202-1776	Judge: Kea W. Riggs					
Court Telephone No.: 575-622-2212	1 1 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2					
Plaintiff	Defendant					
Joe Gutierrez	West of the second seco					
	Name: Anita Canales					
Ÿ.	1131 E. Evans Ave.					
The Hartford Insurance Company,	Pueblo, CO 81004					
Anita Canales, and Geico Insurance	· ·					
Company						
Defendants						

ORIGINAL: To Be Returned to Clerk of District Court for Filing.

TO THE ABOVE-NAMED RESPONDENT (S)/PETITIONER: Take notice

that

- 1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
- 2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA.) The Court's address is listed above.
- 3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person(s) who signed the lawsuit.
- 4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
- 5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
- 6. If you need an interpreter, you must ask for one in writing.
- 7. You may wish to consult a lawyer. You must contact the State Bar of New Mexico for help finding a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.

Dated at Roswell	 New Mexico,	this	23rd	day	of August
, 2017.	,				o a Chadan

By: Jenet Bloomer Deputy



John S. Hightower P.O. Box 550

Roswell, NM 88202-0550

Telephone No.: (575) 622-5440

Fax No.: (575) 622-5853

Email Address: jsh@sbcw.com

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

State of Colorado Pueblo County Sheriff's Office Civil Division Pueblo, CO 81003

Process Number: 127714 Court Number: D-504-CV-2017-00421 I, Kirk M Taylor, Sheriff of Pueblo County Sheriff's Office do hereby certify that I received the within and foregoing Summons, Amended Complaint on 28th day of August, 2017, and that I served the same on: ANITA CANALES (Defendant) 1131 E EVANS AVE Pueblo, CO 81004 Served on: 19th day of September, 2017 at 11:41:00 by Dazzo S Served to: Anita Canales Defendant 1131 E EVANS AVE Pueblo, CO 81004 Returned on the 21st day of September, 201 I also certify that I endorsed on the said copy the date of service, signed my name, and added my official title thereto. Dated the 21st day of September, 2017 Fees: 35.00 Service: Kirk M Taylor, Sheriff Pueblo County Sheriff's Office, Colorado Mileage: 4.50 Other : 0.00 Total: 39.50 BY: Authorized Representative Civil Division Service Fee: \$ Subscribed and sworn before me this 21st day of 2017. Notary Public 909 Court Street Pueblo, Colorado 81003 My commission expires: **GERRE L MASON**

NOTARY PUBLIC STATE OF COLORADO NOTARY ID 19974020275 MY COMMISSION EXPIRES JANUARY 12, 2019 FILED IN MY OFFICE
Case 2:18-cv-00075-GJF-CG Document 1-1 Filed 01/24/18 Page 61 oP57RICT COURT CLERK
9/27/2017 4:54:42 PM
KATIE ESPINOZA

Janet Bloomer

STATE OF NEW MEXICO COUNTY OF CHAVES FIFTH JUDICIAL DISTRICT

JOE GUTIERREZ,

Petitioner,

٧.

Cause No. D-504-CV-2017-00421

THE HARTFORD INSURANCE, ANITA CANALES, and GEICO INSURANCE COMPANY.

Defendants.

ANSWER TO PLAINTIFF'S AMENDED COMPLAINT TO RECOVER DAMAGES

Comes NOW. Defendant Government Employees Insurance Company (GEICO), by and through its undersigned attorneys Chapman and Priest P.C., (Stephen M. Simone/Jessica Singer), and for its Answer to the Plaintiff's Amended Complaint to Recover Damages states as follows:

- 1. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 1 and therefore denies the same.
- 2. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 2 and therefore denies the same.
 - 3. Defendant GEICO admits the allegations contained in paragraph 3.
 - 4. Defendant GEICO admits the allegations contained in paragraph 4.
- 5. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 5 and therefore denies the same.
 - 6. Defendant GEICO admits the allegations contained in paragraph 6.

7. Defendant GEICO admits the allegations contained in paragraph 7.

FACTS

- 8. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 8 and therefore denies the same.
- 9. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 9 and therefore denies the same.
- 10. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 10 and therefore denies the same.
- 11. Defendant GEICO is without information as to the truth of the allegations of contained in paragraph 11 and therefore denies the same.
- 12. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 12 and therefore denies the same.
- 13. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 13 and therefore denies the same.
- 14. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 14 and therefore denies the same.
- 15. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 15 and therefore denies the same.
- 16. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 16 and therefore denies the same.
- 17. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 17 and therefore denies the same.

- 18. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 18 and therefore denies the same.
- 19. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 19 and therefore denies the same.

Unjust Enrichment (The Hartford Insurance)

- 20. Defendant GEICO re-alleges and incorporates by reference her previous responses to paragraphs 1 through 19 as though set forth fully herein.
- 21. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 21 and therefore denies the same.
- 22. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 22 and therefore denies the same.
- 23. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 23 and therefore denies the same.

Fraud (The Hartford Insurance)

- 24. Defendant GEICO re-alleges and incorporates by reference her previous responses to paragraphs 1 through 23 as though set forth fully herein.
- 25. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 25 and therefore denies the same.
- 26. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 26 and therefore denies the same.
- 27. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 27 and therefore denies the same.

- 28. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 28 and therefore denies the same.
- 29. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 29 and therefore denies the same.

Unjust Enrichment (Anita Canales)

- 30. Defendant GEICO re-alleges and incorporates by reference her previous responses to paragraphs 1 through 29 as though set forth fully herein.
- 31. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 31 and therefore denies the same.
- 32. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 32 and therefore denies the same.

Fraud (Anita Canales)

- 33. Defendant GEICO re-alleges and incorporates by reference her previous responses to paragraphs 1 through 32 as though set forth fully herein.
- 34. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 34 and therefore denies the same.
- 35. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 35 and therefore denies the same.
- 36. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 36 and therefore denies the same.
- 37. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 37 and therefore denies the same.

38. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 38 and therefore denies the same.

Breach of Contract (GEICO)

- 39. Defendant GEICO re-alleges and incorporates by reference her previous responses to paragraphs 1 through 38 as though set forth fully herein.
 - 40. Defendant GEICO admits the allegations contained in paragraph 40.
- 41. Defendant GEICO is without information as to the truth of the allegations contained in paragraph 41 and therefore denies the same.
 - 42. Defendant GEICO denies the allegations contained in paragraph 42.
 - 43. Defendant GEICO denies the allegations contained in paragraph 43.
 - 44. Defendant GEICO denies the allegations contained in paragraph 44.

AFFIRMATIVE DEFENSES.

- 1. Plaintiff has failed to mitigate his damages, said defense being asserted to prevent waiver.
 - 2. Plaintiff's claim is limited to the coverage purchased on his GEICO policy.
 - 3. Plaintiff has failed to state a claim upon which relief can be granted.

WHEREFORE having fully answered the complaint, Defendant GEICO prays that the complaint be dismissed at plaintiffs' cost and for such other relief as the court deems proper.

Respectfully submitted,

CHAPMAN AND PRIEST, P.C.

Ltesher M. Simone
Stephen M. Simone

Jessica Singer

PO Box 92438

Albuquerque, NM 87199

505-242-6000

stephensimone@cclawnm.com

ianalden@cclawnm.com

Attorneys for GEICO

I hereby certify the foregoing was served on the following counsel of record via the Odyssey File & Serve system on this _______ day of October, 2017:

John Sullivan Hightower

P.O. Box 550

Roswell, New Mexico 88202-0550

(575) 622-5440

(575) 622-5853 - facsimile

Stephen M. Simone

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10/4/2017 2:29:28 PM

Case 2:18-cv-00075-GJF-CG Document 1-1 Filed 01/24/18 Page 67 oP99TRICT COURT CLERK

KATIE ESPINOZA Janet Bloomer

STATE OF NEW MEXICO **CHAVES COUNTY** FIFTH JUDICIAL DISTRICT COURT

JOE GUTIERREZ V.

THE HARTFORD INSURANCE COMPANY, ET. AL.

No: D-504-CV-2017-00421

NOTICE OF SCHEDULING CONFERENCE

NOTICE IS HEREBY GIVEN that a hearing in this case has been set before the Honorable Kea W. Riggs, as follows:

Date of Hearing: Monday, 4th day of December, 2017 at 9:45 AM

Place of Hearing: Chaves County Courthouse

> 400 N. Virginia St Roswell, NM 88201

Matter to be Heard:

Comments:

Length of Hearing: 15 Minutes

If this hearing requires more or less time than the court has designated, or if this hearing conflicts with any prior setting, please contact us immediately as continuances may not be granted on late notice. The District Court complies with the Americans with Disabilities Act. Counsel or PRO SE persons may notify the Clerk of the Court of the nature of the disability at least five (5) days before ANY hearing so appropriate accommodations may be made. Please contact us if an interpreter will be needed.

> KATIE ESPINOZA CLERK OF THE DISTRICT COURT

CERTIFICATE OF SERVICE

I, the undersigned Employee of the District Court of Chaves County, New Mexico, do hereby certify that I served a copy of this document to all parties listed below on 10/4/2017.

STEPHEN M. SIMONE (E-SERVICE) JOHN SULLIVAN HIGHTOWER (E-SERVICE) JESSICA SINGER (E-SERVICE)

Bv:	ib		
<i>-</i>	J.	 	

FILED IN MY OFFICE Case 2:18-cv-00075-GJF-CG Document 1-1 Filed 01/24/18 Page 68 operation 10/6/2017 2:11:20 PM

KATIE ESPINOZA Janet Bloome

STATE OF NEW MEXICO COUNTY OF CHAVES STATE OF NEW MEXICO

JOE GUTIERREZ,
Plaintiff

VS

THE HARTFORD INSURANCE COMPANY,
ANITA CANALES, and GEICO INSURANCE COMPANY,
Defendants

CV-2017-421

RESPONSE

Case 2:18-cy-00075-GJF-CG Document 1-1 Filed 01/24/18 Page 69 of 92 I Amita Canales was served the Symmon of Case P-504-CV2017-004 21 on September 19,2017 by Daputy Sam Dazzo First of all I am not a Resident of Roswell, New Mexico, the last time I lived there was the Summer I moved with Joe Coutierrez May 6,2016 at his place of resident at Hondo, New Mexico. He and I had a man, wowen relationship for almostagear He KNew I was having problem with my Previous car. We communicated everyday by text and Telephone About Mid April 2016 Joe was Checking online for a Dechile. Joe Cutierrez had text or e-mail the photo of the 2005 Cheu Impala said this is your Car. this was some time on the last Week of April 2016.

I have not transferred the title into my name. I had the original Title of the 2005 Chev Impala. and it was on my name. Joe and I had gone together To Ruidoso, New to the Venicle Registration When I showed my Colorado ID Drivers License the Clerk said I have to have a New Mexico ID. to register the Car Joe Coutierrez insisted of registering the car that same day. Joe asked the clerk is their a other way of doing it. She said if you place under your Auto diswance than we can register the Vehicle under her name. By the time we got home to Hondo which is a 25 minute drive from Ruidoso, N.M. Joe said for me to put the the 2005 impala under my Insurance which at that time it was the AARP the Hartford SOIdid

Case 2:18-cv-00075-GJF-CG Document 1-1 Filed 01/24/18 Page 71 of 92

T was placing job applications for Porsonal Care Provider was not having much Luck. Had only one Client in the Hondo area. So the Thursday before Memorial Day weekend of 2016, Joe Gutierrez said go back to Pueblo, Co you say the place you were working at Pueblo will take you back So he placed 5-20 dollar bills on the Kitchen table he said this should Cover forgas money. Two days later it was Saturday I got home from work about 5:30 p.m. here in Puebbo, Co. farked the car but in the Street Front of my house. Sunday morning I was going out to get Coffee notice it was gone, I called my insurance The Hartford and reported it Stolen. I was Suppose to work that Sunday too If you need to contact me Phone 719-281-9651 Anita Canales

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Case 2:18-cv-00075-GJF-CG Document 1-1 Filed 01/24/18 Page 72 opto TRICT COURT CLERK
10/25/2017 2:03:42 PM
KATIE ESPINOZA

Janet Bloomer

STATE OF NEW MEXICO COUNTY OF CHAVES FIFTH JUDICIAL DISTRICT

JOE GUTIERREZ,

Petitioner,

٧.

Cause No. D-504-CV-2017-00421

THE HARTFORD INSURANCE, ANITA CANALES, and GEICO INSURANCE COMPANY.

Defendants.

MOTION TO APPEAR TELEPHONICALLY

Comes NOW, the undersigned counsel for GEICO and hereby requests the Court for an Order allowing the undersigned to attend the Scheduling Conference set for December 4, 2017 at 9:45 a.m. telephonically and as grounds therefore states that telephonic appearance will reduce expenses to GEICO but will not adversely affect the hearing.

Opposing counsel has been contact and does not oppose this motion.

Respectfully submitted,

CHAPMAN AND PRIEST, P.C.

Stephen M. Simone

Jessica Singer

PO Box 92438

Albuquerque, NM 87199

505-242-6000

stephensimone@cclawnm.com

ianalden@cclawnm.com

Attorneys for GEICO

I hereby certify the foregoing was served on the following counsel of record via the Odyssey File & Serve system on this 25 day of October, 2017:

John Sullivan Hightower P.O. Box 550 Roswell, New Mexico 88202-0550 (575) 622-5440 (575) 622-5853 – facsimile jsh@sbcw.com

Stephen M. Simone

FILED IN MY OFFICE Case 2:18-cv-00075-GJF-CG Document 1-1 Filed 01/24/18 Page 74 oP92TRICT COURT CLERK 11/2/2017 11:18:54 AM

> KATIE ESPINOZA Janet Bloomer

STATE OF NEW MEXICO **COUNTY OF CHAVES** FIFTH JUDICIAL DISTRICT

JOE GUTIERREZ,

Petitioner,

٧.

Cause No. D-504-CV-2017-00421

THE HARTFORD INSURANCE, ANITA CANALES, and **GEICO INSURANCE COMPANY,**

Defendants.

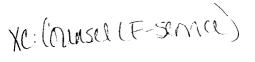
ORDER TO APPEAR TELEPHONICALLY

THIS MATTER having come before the Court on Motion by GEICO counsel to appear telephonically at the Scheduling Conference set for December 4, 2017 at 9:45 a.m. and the Court having reviewed said Motion and noting no objection, find the Motion is well-taken.

IT IS THEREFORE order that counsel for GEICO may appear telephonically at the Scheduling Conference on December 4, 2017 at 9:45 a.m.

THE HONORABLE KEA RIGGS

DISTRICT COURT JUDGE



Approved by:

/s/ Stephen M. Simone Stephen M. Simone Jessica Singer PO Box 92438 Albuquerque, NM 87199 505-242-6000

Pesich (gr. 1. la. wuw.com)

Attorneys for GEIC

Approved via email 10/25/17 John Sullivan Hightower P.O. Box 550 Roswell, New Mexico 88202-0550 (575) 622-5440 (575) 622-5853 – facsimile jsh@sbcw.com

28/2017 2:00:11 PM KATIE ESPINOZA Janet Bloomer

STATE OF NEW MEXICO COUNTY OF CHAVES FIFTH JUDICIAL DISTRICT

JOE GUTIERREZ,

Plaintiff,

٧.

Cause No. D-504-CV-2017-00421

THE HARTFORD INSURANCE COMPANY, ET. AL. Defendants.

MOTION FOR CONTINUANCE

COMES NOW Plaintiff, by and through his attorney of record, Sanders, Bruin, Coll & Worley P.A. (John S. Hightower) and for his Motion to Continue hereby states:

- 1. A Scheduling Conference is set for Monday, December 4, 2017 at 9:45 a.m.
- 2. Plaintiff's attorney is still working on serving The Hartford Insurance Company.
- 3. Defendant agrees/opposes to the continuance.
- 4. Attached to this Motion is a list of Non-Availablity Dates for Plaintiff's attorney.

WHEREFORE, Plaintiff respectfully requests that this Court continue the Scheduling Conference that is set for Monday, December 4, 2017 at 9:45 a.m. until further order of the Court.

Respectfully submitted,

SANDERS, BRUIN, COLL & WORLEY P.A.

John S. Hightower
P.O. Box 550
Roswell, NM 88202-0550
575-622-5440
Attorneys for Plaintiff

I certify that I e-filed a copy of the foregoing through the Court's Mandatory Electronic Filing System causing a copy of the same to be e-served on all parties of record on this 28th day of November, 2017:

By:

John S. Hightower

12/1/2017 9:54:24 AM

KATIE ESPINOZA Janet Bloomer

STATE OF NEW MEXICO **COUNTY OF CHAVES** FIFTH JUDICIAL DISTRICT

JOE GUTIERREZ,

Plaintiff,

٧.

Cause No. D-504-CV-2017-00421

THE HARTFORD INSURANCE COMPANY, ET. AL. Defendants.

ORDER FOR CONTINUANCE

THIS MATTER having come upon Plaintiff's Motion for Continuance, the Court finds the Motion is well taken.

IT IS HEREBY ORDERED that the hearing presently set in the Scheduling Conference

for December 4, 2017 at 9:45 a.m. will be continued and will be reset for

coursel. KM

Honorable Kea W. Riggs

District Judge

APPROVED AS TO FORM AND SUBSTANCE:

Sanders, Bruin, Coll & Worley P.A.

John S. Hightower

XC: Course (E-service

P.O. Box 550 Roswell, NM 88202-0550 575-622-5440 Attorneys for Plaintiff

By: Approved Electronically 11/28/17 @ 1:42 p.m.

Stephen M. Simone
Simone, Roberts & Weiss, P.A.
1700 Louisiana Blvd. NE. #240
Albuquerque, NM 87110-7008
Telephone - 505-298-9400
Fax - 505-298-7070
ssimone û srw-law.com

By: No Response 11/28/2017
Jessica Singer
Chapman and Charlebois, P.C.
4001 Osuna Rd. NE #2-203
P.O. Box 92438
Albuquerque, NM 87199-2438
Telephone - 505-242-6000
Fax - 505-213-0561
jessica/ā celawnm.com

FILED IN MY OFFICE Case 2:18-cv-00075-GJF-CG Document 1-1 Filed 01/24/18 Page 80 opto TRICT COURT CLERK 12/13/2017 1:56:04 PM

KATIE ESPINOZA Janet Bloomer

STATE OF NEW MEXICO COUNTY OF CHAVES FIFTH JUDICIAL DISTRICT

JOE GUTIERREZ,

Plaintiff,

٧.

D-504-CV -2017-00421

THE HARTFORD INSURANCE, ANITA CANALES, and GEICO INSURANCE COMPANY,

Defendants.

MOTION FOR SUMMARY JUDGMENT

Defendant GEICO Insurance Company (hereinafter "GEICO"), by and through its counsel of record, Chapman and Priest, P.C., (Stephen M. Simone and Larissa Breen), hereby files this Motion for Summary Judgment pursuant to Rule 1-056(B) NMRA. In support of its motion, GEICO states as follows.

I. INTRODUCTION

Plaintiff filed his Amended Complaint to Recover Damages on August 7, 2017. Plaintiff alleges that he had permitted Anita Canales to use one of his vehicles, which was covered by an automobile insurance policy with GEICO. While the vehicle was titled in her name and also under her personal insurance, the vehicle was stolen. Ms. Canales reported the stolen vehicle to her insurance carrier, Hartford Insurance. At that point, Plaintiff alleges Hartford Insurance accepted and paid the claim to Ms. Canales. Plaintiff stated he notified GEICO of the loss and they refused to pay the claim.

Plaintiff's Complaint states his claim against GEICO is for Breach of Contract. Specifically, he alleges that he had a contract with GEICO to insure the Chevrolet Impala at issue in this suit. See Complaint ¶40. Plaintiff claims that when the vehicle was stolen,

all conditions requiring GEICO to fulfill its obligations under the contract occurred. See Complaint 42. Therefore, by not paying the claim GEICO did not do something the contract obligated them to do. Complaint ¶43.

Plaintiff's claim must fail, however, because at the time of the loss Plaintiff did not have comprehensive coverage for any vehicle on his insurance policy, including the Chevrolet Impala being used by Ms. Canales. As Plaintiff had not contracted for comprehensive coverage for the Impala, it was not a breach of the contract for GEICO to not pay the claim when the vehicle was stolen. Thus, Plaintiff's Complaint against GEICO must be dismissed as a matter of law.

Due to the nature of this Motion, it is presumed Plaintiff is opposed.

II. UNDISPUTED FACTS

The Chevrolet Impala was stolen in May of 2016. At the time of the theft, Plaintiff held an automobile insurance policy with GEICO Insurance Company for four vehicles. This included the 2005 Chevrolet Impala bearing VIN #2G1WF5ZK55932263. See Declarations Page for Policy Number: 4144-03088-92 for Named Insured Joe S. Gutierrez, attached as **Exhibit A**.

III. SUMMARY JUDGMENT STANDARD

The court shall grant summary judgment when the "pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact." Rule 1-056(C), NMRA. If there is no genuine issue of material fact, the moving party is entitled to judgment as a matter of law. *Id.* Summary judgment may be granted "when the moving party has met its initial burden of establishing a prima facia case for summary judgment." *Romero v. Philip Morris Inc.*,

2010-NMSC-035, ¶10, 148 N.M. 713, 242 P.3d 280. The moving party has met this burden when it has presented evidence "sufficient in law to raise a presumption of fact. . . unless rebutted." Id. (internal citations omitted). Once the moving party has made a prima facie case that it is entitled to judgment as a matter of law, the burden shifts to the non-moving party to show there are evidentiary facts that would require a trial on the merits. *Id*.

IV. ARGUMENT

In this case, Plaintiff does not dispute that he had an automobile insurance policy with GEICO at the time the Chevrolet Impala was stolen. That is the heart of his claim. However, the declarations page for the policy speaks for itself, and it does not state that comprehensive coverage applied to any of the vehicles under the policy, including the Impala. Plaintiff cannot argue that the policy was in place, but ask to disregard its very terms. Therefore, since there is no dispute that Policy Number 4144-03088-92 was the governing automobile insurance policy for the Chevrolet Impala at the time of the theft, and since there is no comprehensive coverage applied under that policy, Plaintiff's Complaint must be dismissed.

WHEREFORE, Defendant GEICO respectfully requests the Court grant its Motion for Summary Judgment and dismiss with prejudice Plaintiff's Complaint and all causes of

action against Defendant GEICO and for such other and further relief as the Court deems just and proper.

Electronically Filed,

CHAPMAN AND PRIEST, P.C.

Stephen M. Simone

Larissa Breen P.O. Box 92438

Albuquerque, NM 87109

Tel: (505) 242-6000

stephensimone@cplawnm.com larissabreen@cplawnm.com

I hereby certify the foregoing was served on the following counsel of record via the Odyssey File & Serve system on this 13th day of December 2017.

John Sullivan Hightower Sanders, Bruin, Coll & Worley P.A. P.O. Box 550 Roswell, NM 88202-0550 Attorney for Plaintiff

And via USPS to:

Anita Canales 1131 E. Evans Avenue Pueblo, Colorado 81004

Stepher M. Simone

AFFIDAVIT

I, RUBEN S. GARAY, of GOVERNMENT EMPLOYEES Insurance Company, a corporation organized and existing under the laws of the State of Maryland, do hereby certify that the attached are the policy limits, contract and amendments that were in effect for policy number 4144 03 88 92 for the loss date of MAY 31, 2016 issued to JOE S GUTIERREZ policy address is PO BOX 162 HONDO NM 88336-0162 by GOVERNMENT EMPLOYEES Insurance Company.

Ruben S. Garav

Claims Coverage Underwriter

Subscribed and sworn before me this 22 nd day of September 2017.

COV₁





Tel: 1-800-841-3000

GOVERNMENT EMPLOYEES INSURANCE COMPANY P.O. Box 509090 San Diego, CA 92150-9090

Date Issued: May 31, 2016

JOE S GUTIERREZ PO BOX 162 HONDO NM 88336-0162

Declarations Page

This is a description of your coverage. Please retain for your records.

Policy Number: 4144-03-88-92 Coverage Period:

04-15-16 through 10-15-16 12:01 a.m. local time at the address of the named insured.

Endorsement Effective: 05-31-16

Email Address: joseph_69_82@yahoo.com

Named Insured Joe S Gutierrez			Additional Di None	<u>rivers</u>			
<u>Vehícles</u>	<u>VIN</u>		Vehicle Location		<u>Finance Company/</u> Lienholder		
1 1993 Ford	T Bird LX	1FAPP624XPH108477	Hondo NM 883	36			
2 1995 Ford	T Bird Sup	1FALP64R9SH203161	Hondo NM 883	36		*****************	
3 1997 Ford	F250 Hvdty	1FTHX25F4VEC37897	Hondo NM 883	36	*********************	***************	
4 2005 Chev	lmpala	2G1WF52K559322630	Hondo NM 883	36	***********		
Coverages* Bodily Injury Liab Each Person/Eac			<u>d/or Deductible</u> : 000/\$50,000	s <u>Vehicle 1</u> \$39.70	Vehicle 2 \$33.00	Vehicle 3 \$33.00	Vehicle 4 \$40.50
Property Damage	Liability		\$25,000	\$38,00	\$31.50	\$31.50	\$36,70
Medical Payment	S	· · · · · · · · · · · · · · · · · · ·	\$1,000	\$5.30	\$2.90	\$4.90	\$3.40
Uninsured Motori Each Person/Eac Uninsured Motori	ch Occurrence	\$25,0	000/\$50,000 \$25,000	\$27.90 \$0.00	\$27.90 \$0.00	\$27.90 \$0,00	\$27.90 \$0.00
Six Month Premi		e		\$110.90	\$95.30	\$97,30	\$108.50 \$412.00

*Coverage applies where a premium or \$0.00 is shown for a vehicle.

If you elect to pay your premium in installments, you may be subject to an additional fee for each installment. The fee amount will be shown on your billing statements and is subject to change.

Discounts

The total value of your discounts is	\$157.90
Seatbelt (Veh 1, 2, 3, 4)	\$2.80
Multi-Car (Veh 1, 2, 3, 4)	\$94.30
5 Year Good Driving (Veh 1, 2, 3, 4)	\$56.50
Passive Restraint/Air Bag (Veh 2, 4)	\$4.30

Contract Type: A70NM

Contract Amendments: ALL VEHICLES - A54ED1 A54NM A70NM

Important Policy Information

- -Congratulations! You have earned the free Accident Forgiveness benefit. That means we will waive the surcharge associated with the first at-fault accident caused by an eligible driver on your policy.
- -Please review the front and/or back of this page for your coverage and discount information.
- -Special 50+ rating applies.
- -No coverage is provided in Mexico.
- -Reminder Physical damage coverage will not cover loss for custom options on an owned automobile, including equipment, furnishings or finishings including paint, if the existence of those options has not been previously reported to us. This reminder does NOT apply in VIRGINIA and NORTH CAROLINA. Please call us at 1-800-841-3000 or visit us at geico.com if you have any questions.
- -Claims incurred while an insured vehicle is being used to carry passengers for hire may not be covered by this contract. Please review the contract for a full list of exclusions and contact us if you plan to use any of your insured vehicles for this purpose.
- -Your 1995 JEEP has been replaced by the 2005 CHEV.

FILED IN MY OFFICE

Case 2:18-cv-00075-GJF-CG Document 1-1 Filed 01/24/18 Page 87 open 12/2018 4:02:18 Page 87 open 12/2018

1/2/2018 4:03:19 PM KATIE ESPINOZA Janet Bloomer

STATE OF NEW MEXICO COUNTY OF CHAVES FIFTH JUDICIAL DISTRICT

JOE GUTIERREZ,

Plaintiff,

v. D-504-CV -2017-00421

THE HARTFORD INSURANCE, ANITA CANALES, and GEICO INSURANCE COMPANY,

Defendants.

STIPULATION OF DISMISSAL

COMES NOW, the Plaintiff, Joseph Gutierrez and Defendant GEICO Insurance Company (hereinafter "GEICO"), by and through their counsel of record, Sanders, Bruin, Coll & Worley P.A, (John Sullivan Hightower) and Chapman and Priest, P.C., (Stephen M. Simone and Larissa Breen), hereby stipulate to the dismissal without prejudice of all claims Plaintiff has against GEICO.

The Honorable Kea W. Riggs

District Court Judge

Submitted by:

CHAPMAN AND PRIEST, P.C.

/s/ Stephen M. Simone
Stephen M. Simone
Larissa Breen
P.O. Box 92438
Albuquerque, NM 87109
Tel: (505) 242-6000
stephensimone@cplawnm.com
larissabreen@cplawnm.com

Approved via email 12/26/17
John Sullivan Hightower
Sanders, Bruin, Coll & Worley P.A.
P.O. Box 550
Roswell, NM 88202-0550
jsh@sbcw.com
Attorney for Plaintiff

KATIE ESPINOZA Janet Bloomer

SUMMONS for AMENDED COMPLAINT TO RECOVER DAMAGES Fifth Judicial District Court: Case Number: D-504-CV-2017-00421 **Chaves County** New Mexico Court Address: P.O. Box 1776 Roswell, NM 88202-1776 Judge: Kea W. Riggs Court Telephone No.: 575-622-2212 **Plaintiff** Defendant Joe Gutierrez Name: The Hartford Insurance Company The Hartford Insurance Company Clo Provistered Agent Anita Canales and Geico Insurance 2600 Wiseman Blvd. Ban Antonio, TX 78251 Company **Defendants**

ORIGINAL: To Be Returned to Clerk of District Court for Filing.

TO THE ABOVE-NAMED RESPONDENT (S)/PETITIONER: Take notice

that

- 1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
- 2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA.) The Court's address is listed above.
- 3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person(s) who signed the lawsuit.
 - 4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
 - 5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
 - 6. If you need an interpreter, you must ask for one in writing.
 - 7. You may wish to consult a lawyer. You must contact the State Bar of New Mexico for help finding a lawyer. You may contact the State Bar of New

	co for help t 97-6066.	inding a lawy	er at <u>www.nm</u>	ibar.org; I	-800-876-6657;	or I-
Dated at	Roswell	, New	Mexico, this	23rd	day of <u>Augu</u> s	st

0 , 00

, 2017.

John S. Hightower P.O. Box 550

Roswell, NM 88202-0550 Telephone No.: (575) 622-5440

Fax No.: (575) 622-5853

Email Address: jsh@sbew.com

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

		RETURN
	Texas	
STATE	OF NEW MEXICO	}
O XXXX W	2	ps.
COUNT	TY OF Charge	\$*************************************
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this law	wit, and that I served the	is summons in Charles county on the 24 day of Acceptage
Harmon Court A Co	2017 by delivering a	opy of this summons', with a copy of the complaint attached, in the
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_		ummons and complaint
Ď.	10	the person apparently in charge at the actual place of at of the Defendant and by mailed by first class mail to the Defendant at
		siness address) and by mailing the summons and complaint by first class
		at (insert Defendant's last known mailing address).
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W.	10 30111 51	144 (name of person), Nilluge (title precaive service. Use this alternative when the Defendant is a
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		ciation subject to a sult under a common name, a land grant board of
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Fees:	**************************************	- //
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<i>y</i> *	7-11-19	
		ROBLET S. MARIN
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CAUSE NO. D-504-CV-2017-00421

Joe Gutlerrez	<u>§</u>	IN THE COUNTY COURT
	5	
Plaintiff,	\$	
VS.	§	FIFTH JUDICIAL DISTRICT COURT
	\$	*
The Hartford Insurance Company, Anita Canales and	§	
Geico Insurance Company		
Defendant.	§.	CHAVES COUNTY, NEW MEXICO

AFFIDAVIT OF SERVICE

On this day personally appeared Ben Davila Jr. who, being by me duly sworn, deposed and said:

"The following came to hand on Dec 21, 2017, 6:00 pm,

SUMMONS, AMENDED COMPLAINT TO RECOVER DAMAGES.

and was executed at 3600 Wiseman Blvd, San Antonio, TX 78251 within the county of Bexar at 05:18 PM on Tue, Dec 26 2017, by delivering a true copy to the within named

SAN SHULER ACCEPTED ON BEHALF OF THE HARTFORD INSURANCE COMPANY, C/O REGISTERED AGENT

in person, having first endorsed the date of delivery on same.

I am a person over eighteen (18) years of age and I am competent to make this affidavit. I am a resident of the State of Texas. I am familiar with the Texas Rules of Civil Procedure as they apply to service of Process. I am not a party to this suit nor related or affiliated with any herein, and have no interest in the outcome of the suit. I have never been convicted of a felony or of a misdemeanor involving moral turpitude. I have personal knowledge of the facts stated herein and they are true and correct."

Ben Davila Jr. SCH#11661

BEFORE ME, a Notary Public, on this day personally appeared Ben Davila Jr., known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are within his or her personal knowledge and are true and correct.

SUBSCRIBED AND SWORN TO ME ON

Notary Public, State of Texas

808881 S. MASIN Fiology Public, State of Texas Carrins, Expres 07-11-2019 Battary ID: 128671542